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Social Enterprise Legislation in Finland

In this short paper I analyse the content of the Finnish Act on Social Enterprises (1351/2003) its applicability and compare it to some other national European legislation on social enterprises.

Finland is one of the Nordic Countries with universal welfare state. The responsibility to take care of those in need is on the public sector. Since the Second World War municipalities and other public sector entities have established over 300 work centres and sheltered workshops to employ disadvantaged persons. There was no real need for social enterprises before the 1990's. when the mass employment and deep economic crises in beginning of 1990's changed the situation idea of self-help work integration enterprises rose among the unemployed and their associations. The economic crises affected heavily also to the work centers for disabled they have to cut their rehabilitation activities to survive, search for new markets for their products and new ways of organizing themselves.

The origins of the Finnish Act on Social Enterprises

In a very rapid procedure in summer and autumn 2003 the Finnish Act on Social Enterprises (1351/2003) was prepared; it passed the Parliament in good understanding, was adopted 30.12.2003 and came into force 1.1.2004. The need for such an Act was motivated by the persistent long-term unemployment of 180 000 persons and by the severe difficulties that 45 000 unemployed disabled persons had in finding jobs for them selves. Concerns about unfair competition, taken up by some organisations representing small and medium sized enterprises and industries and by some public sector service providers affected heavily to the legislation process.

According to the Act a social enterprise is:

- 1) An enterprise created for the employment of people with disabilities and of the long-term unemployed (1§)
- 2) A market-oriented enterprise with its own products and/or services and
- 3) Should be a registered trader who is entered in the register of social enterprises kept by the Ministry of Labour (§3)

- 4) At least 30% of its employees should be disabled and long-term unemployed or solely disabled (§3)
- 5) Wages should be paid to all employees whether disadvantaged or not according to general agreements in the branch of industry.

When the Parliament passed the Act on Social Enterprises it required that the effectiveness of the law should be evaluated in two years time. The ministry of labour evaluated the effectiveness of the Finnish Act in spring 2006 and came into the conclusion that in order to increase the capability of social enterprises to employ disadvantaged and long-term unemployed the parliament and government:

- Should allow reductions to social enterprises on value added tax,
- Finance an efficient system on promoting social enterprises,
- Should require also the use social criteria's in public procurement,
- Should add mental recoveries to the target groups of social enterprises.

The Finnish Parliament agreed with the Ministry of Labour and even made some new propositions to further development of the Act. According to the Parliament immigrants who are not able to use Finnish language should be included to the target group in the case they cannot find a job.

Regardless of the plans the amendments (409/2007) included only slight improvements to the subsidies for employing the target groups, when. The amendments allowed also social enterprises to place their employees to other enterprises to fixed term employment.

What kind of enterprises can be accepted to the register of social enterprises?

All enterprises regardless of their legal form and ownership structure may apply for this register if they are already registered as an enterprise to the Enterprise Register of Ministry of Trade and Commerce. Even associations that have a steady place of business and at least one employee and are already in the above mentioned register might apply.

The enterprise accepted to the Register must explicitly mention in its bylaws the aim to employ disabled and long-term unemployed persons. Every social enterprise in the register must employ at least one disabled person. No other enterprise than a registered one may use the words social enterprise in its marketing or in its name.

Benefits of the social enterprises

Public employment services may grant support to the establishment of a social enterprise. Support may also be granted to associations and foundations aiming for promotion of social enterprises mentioned in this Act. These supports may not be granted for commercial development. The use of the supports has been minimal due the restrictions in the use. Registered social enterprises are eligible to all supports, loans etc. as any other registered enterprise in the country.

The Registered Social Enterprises are eligible to easier procedure for employment supports, (employment subsidies or combined subsidies) to long-term unemployed and/or disabled members of the staff than “normal” enterprises that are paid towards their wage costs. The registered social enterprises may have the supports for three year in one application whilst the normal enterprises have to apply every six-month or yearly. The amounts granted to social enterprises are in maximum level whilst other enterprises may not always have their employments supports on that level. The three-year support period for a disabled person can be renewed as many times as necessary for the person in question to reach the capability to be employed in the open labour market. The supports for employing long-term unemployed cannot be renewed.

The Finnish social enterprises do not have any specific public benefit status. In the specific cases when the majority of the employees in a social enterprise are people with restricted ability to work public procurements may be directed only to them and traditional work centres (Act on Public Procurement (348/2007) § 14).

The marginality of the supports entail that there are no restrictions for social enterprises on how to use the possible profits or surpluses created.

The Finnish Act on Social Enterprises do not require any kind of participatory structures or participation by members, owners, employees or other stakeholders neither does it provide any advantage to participatory models of enterprise (worker co-operatives or other). But on the other it does not restrict the use of participatory structures in social enterprises and thus to increase the integration of the target groups.

In mid June 2008 there were 170 enterprises registered under the Act on Social Enterprises N° 1351/2003. Out of the registered enterprises 166 were companies and other private enterprises (some owned by social economy organisations) and fourteen were enterprises of Social economy.

Most of the registered social enterprises are micro-enterprises employing 2 to 3 persons. The sectors of trading are varying considerably. The biggest enterprises are producing metal, wood and textile goods and the smallest are mostly providing services (cleaning, housing etc.).

Finnish Act on Social Enterprises compared to the laws in some other European country

Using the EMES social enterprise characterisation as a point of reference clarifies the differences in European social enterprise laws. The EMES criteria consist of four criteria on entrepreneurial dimension and five of social dimension.

Table 1. Social enterprise legislation in some European countries compared to EMES criteria

EMES criteria (www.emes.net)	Communi- ty interest Company CIC UK	Italian law on Social Co-ops.	Belgium Social purpose companies	Portugal Integrat.ion. Companies	Finnish Act on Social Enterprises.
<i>Continuous production of goods and/or services</i>		x	x	x	X
<i>A high degree of autonomy</i>		x	x		
<i>A significant level of economic risk</i>	x	x	x	x	X
<i>A minimum amount of paid work</i>		x	x	x	X
<i>A initiative launched by a group of citizens</i>	x	x		x	
<i>A decision-making power not based on capital ownership</i>		x	x	x	
<i>A participatory nature, which involves the persons affected by the activity</i>	x	x	X		
<i>Limited distribution of profits</i>	x	x	x	x	
<i>An explicit aim to benefit the community</i>	x	x	x	x	X (employment)

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Laki sosiaalisista yrityksistä (Act on Social Enterprises) (1351/2003).

Finnish Law on Social Enterprises defines only the minimum conditions to social enterprises (to employ disabled and long-term unemployed persons). It fulfils on four of the nine characteristics. Three of them are entrepreneurial and only one social characterisation. Finland is the only country, out of the five, that do not restrict the use of the surplus in anyway.

Finnish law together with CIC law in UK does not offer any specific advantages to social enterprises. Usually legislation on social enterprise tend to offer specific tax reductions or supports due restrictions in goals and aims, labour force or/and in allocating profits. Finnish law together with the Portuguese one does not require any participatory structures in social enterprises neither does it mention or require anything about the initiative makers. The independency of social enterprise from the public sector entities is not a criterion.

Future developments on social enterprises and social enterprise legislation

According to The Parliament conclusions on amendment of the Social Enterprise Act if the legal renewals and the future developments in the practices of public services do not show to be effective other more profound means should be considered. The more profound means may include that the social enterprises could be defined as enterprises not aiming for profit and enterprises established for social purposes in order to enable more supports and even to be able to make legal requirements to restriction of delivering profits and selling or transferring assets.

Today discussion on social enterprises is focusing to the need of legislation on social enterprises in social and health care services, following the ideas behind Law on Community Interest Companies in UK and the Swedish law on Companies with restricted delivery of profits.

Sources

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